

From: Bruce McFarling
To: Microsoft ATR
Date: 12/7/01 9:48pm
Subject: Microsoft Settlement

Dear Sir/Madam,

I am a U.S. citizen, working in Australia as a lecturer in Economics. With respect to the proposed settlement in the Microsoft anti-trust case, I would like to point out one glaring loophole.

In the settlement, commercial companies are provided with direct protection against some anti-competitive behaviour by Microsoft. However, in many instances, only Open Source Software operating by attracting volunteer labour on a global basis can maintain the developer resources to provide effective alternatives to Microsoft's products. Therefore, in many cases commercial companies rely on, and contribute to, Open Source Software development efforts as a part of their competitive strategy.

There is no protection in the language of the settlements against action against Open Source Software, or indeed any not-for-profit activities (including government activities), and therefore no protection for those companies whose most effective competitive response to Microsoft's aggressive use and abuse of market power is to participate in such activities.

It is therefore important that the restrictive language with respect to activities of viable commercial entities be expanded to include those not for profit organisations that make their work available to commercial entities, whether based on Open Source access, access to participants in joint activities, or otherwise.

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Virtually,

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